

1 UNITED STATES DISTRICT COURT

2 WESTERN DISTRICT OF NEW YORK

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5 UNITED STATES OF AMERICA 18-CR-6094(G)

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7 vs.

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CARLOS JAVIER FIGUEROA, Rochester, New York
Defendant. May 18, 2021

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10 TRANSCRIPT OF PROCEEDINGS
11 BEFORE THE HONORABLE FRANK P. GERACI, JR.
UNITED STATES DISTRICT CHIEF JUDGE

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WITNESS FOR THE GOVERNMENT

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Axel Aponte Camacho

Cross-examination by Mr. Vacca

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Redirect examination by Mr. Marangola

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P R O C E E D I N G S

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(WHEREUPON, the defendant is present).

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THE COURT: Good morning.

08:15:09AM 5

MR. MARANGOLA: Good morning, Your Honor.

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MR. VACCA: Good morning, Judge. Ready to proceed?

7

MR. MARANGOLA: Yes, Your Honor.

8

THE COURT: Mr. Vacca?

9

MR. VACCA: Ready, Your Honor.

09:01:34AM 10

THE COURT: Bring the jury out, please.

11

(WHEREUPON, the jury is present).

12

THE COURT: Good morning, members of the jury.

13

Mr. Vacca, you may proceed.

14

MR. VACCA: Thank you, Your Honor.

09:04:36AM 15

CROSS-EXAMINATION

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MR. VACCA: Could we play the Miller Street

compilation, please?

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19

MR. MARANGOLA: Judge, we've advised Mr. Vacca with

respect to videos, Ms. McCready has pulled them up for him so

09:04:47AM 20

if he does need to use any of those on his examination of Mr.

21

Aponte Camacho, Ms. McCready will help him there.

22

THE COURT: Thank you very much.

23

MR. VACCA: Thank you.

24

MR. MARANGOLA: We have that here.

09:05:00AM 25

BY MR. VACCA:

1 Q. Now, Mr. Camacho -- stop, please. To the compilation
2 here, do you see a vehicle in this compilation?

3 A. Yes.

4 Q. And do you know what kind of vehicle that is?

09:05:17AM 5 A. Yes.

6 Q. What kind is it?

7 A. A Honda Accord.

8 Q. Whose car is that?

9 A. I'm not sure who the car is registered to, but Javi bought
09:05:39AM 10 it.

11 Q. Javi bought it?

12 A. Yes.

13 Q. And do you know who is in that vehicle on that day?

14 A. Yes.

09:05:48AM 15 Q. Who is in that vehicle?

16 A. Cabra.

17 Q. Cabra?

18 A. Tapon and Obed.

19 THE COURT: Mr. Vacca, could you indicate the time
09:06:00AM 20 on this?

21 MR. VACCA: The time on this is 10.32.35.

22 THE COURT: Thank you.

23 BY MR. VACCA:

24 Q. Carlos was not in that vehicle, correct?

09:06:11AM 25 A. No.

1 Q. Okay. Continue, please. Now, what direction -- stop
2 please. What direction is that vehicle traveling in?

3 A. I don't understand the question.

4 **THE COURT:** I don't see anything.

09:06:27AM 5 **BY MR. VACCA:**

6 Q. What street is that vehicle on?

7 **THE COURT:** Which vehicle? There's nothing on the
8 screen.

9 **MR. VACCA:** I know, I need the screen.

09:06:39AM 10 **THE WITNESS:** Direction to Miller.

11 **BY MR. VACCA:**

12 Q. Direction to Miller. Okay. And what street is that
13 vehicle traveling on as you see it in 10.32.35.64?

14 A. Direction to Miller.

09:06:59AM 15 Q. Direction to Miller. Is it turning on to Miller Street?

16 A. It looks like it's going straight to Miller.

17 Q. Straight to Miller, but what street is it going down?

18 A. If I'm not mistaken, on Portland.

19 Q. So the vehicle is traveling on Portland. And this is at
09:07:27AM 20 10:32:35. So that vehicle is going down Portland?

21 A. It looks like it's going in the direction to Miller.

22 Q. Right. But what road is it on as we see it in this clip?

23 A. I think Portland.

24 Q. You think Portland?

09:07:53AM 25 A. I'm not sure.

1 Q. You're not sure. Okay, continue please. Stop, please.

2 What does this photo show you?

3 **THE COURT:** Time?

4 **MR. VACCA:** 10:41.02.

09:08:09AM 5 **THE COURT:** Thank you.

6 **THE WITNESS:** Javi's truck in intersection.

7 **BY MR. VACCA:**

8 Q. Okay. What intersection is Javi's truck at?

9 A. I honestly don't know.

09:08:21AM 10 Q. You don't know which street Javi is on in that photo or in
11 that clip?

12 A. In this intersection, no.

13 Q. Do you know what the intersection is?

14 A. No.

09:08:36AM 15 Q. You don't know what the intersection is? Okay, continue,
16 please.

17 A. No.

18 Q. Stop. Now, at 10:41.05 what do you see there?

19 A. That the truck turns.

09:08:54AM 20 Q. What street did it turn onto?

21 A. I don't know.

22 Q. You don't know what direction it is going?

23 A. It turned to right-hand side.

24 Q. But you don't know the street?

09:09:10AM 25 A. No.

1 Q. Did you review this video with the U.S. Attorney's Office?

2 A. This video, yes.

3 Q. When did you review this video?

4 A. Maybe a month, maybe three weeks ago.

09:09:32AM 5 Q. How many times did you view this video?

6 A. Maybe like three times.

7 Q. Three times. Were you transported up here in order to
8 view the video?

9 A. If they bring me to the building?

09:09:55AM 10 Q. Right.

11 A. Yes.

12 Q. How many times did they bring you to the building?

13 A. In total or to watch the video?

14 Q. To watch the video.

09:10:10AM 15 A. To watch that video and to show me other stuff.

16 Q. Yeah, but when did you view the video?

17 A. Like three weeks or a month ago.

18 Q. Okay. How many times did you review it?

19 A. Like three times.

09:10:36AM 20 Q. Three times. And who was present when you viewed this
21 video?

22 A. The U.S. Attorney.

23 Q. Right. Who else?

24 A. The agent and the interpreter.

09:10:48AM 25 Q. How many agents?

1 A. And myself.

2 Q. How many agents?

3 A. Two.

4 Q. And who were the agents, do you recall?

09:10:58AM 5 A. Patrick and Joe.

6 Q. Patrick and Joe?

7 A. Yes.

8 Q. When you reviewed this video was it at the U.S. Attorney's
9 Office here?

09:11:14AM 10 A. I don't know.

11 Q. Well, did they bring you back to this building?

12 A. Yes.

13 Q. Yes. And how many times did they bring you to this
14 building?

09:11:37AM 15 A. Maybe 40 times.

16 Q. How many times did you just say?

17 A. Maybe 40 times.

18 Q. 40 times?

19 A. Yes.

09:11:43AM 20 Q. Over what period of time?

21 A. Since January of 2017.

22 Q. January of 2017 you were brought back here about 40 times?

23 A. Since that period of time until a few weeks before the
24 trial started --

09:12:14AM 25 Q. Okay. And --

1 A. -- that I -- that I came to sit here.

2 Q. -- And testify today, correct?

3 A. Yes.

4 Q. Did they prepare you, these individuals that you met with,
09:12:25AM 5 to testify in this trial?

6 A. I don't understand what you're trying to say when they
7 prepare me.

8 Q. When they talked to you about this case for 40 times,
9 okay? They were preparing you to take the stand and testify,
09:12:41AM 10 correct?

11 A. They were showing me to review the calls, the videos, the
12 pictures of people.

13 Q. Did you listen to any phone calls?

14 A. Yes.

09:13:09AM 15 Q. How many phone calls did you listen to?

16 A. I don't know exactly, maybe 50, maybe more. I'm not sure.

17 Q. When did you first talk to law enforcement about
18 testifying in this case?

19 A. I'm not sure.

09:13:45AM 20 Q. You're not sure when they first talked to you?

21 A. I think it was in January of 2017.

22 Q. Okay. And how did that come about? Could you tell us?

23 A. They took me from Monroe County to this building on the
24 sixth floor, the agent picked me up at Monroe, they took me to
09:14:20AM 25 the sixth floor and there they asked me questions of the

1 things that I knew and I told them the things that I knew.

2 Q. Okay. And this is -- you were there about 40 times?

3 A. Since the period of time of since January 2017 until
4 before I'm standing here.

09:14:52AM 5 Q. When was the last time that you talked to them?

6 A. Wednesday. I came to sit here for first time on Thursday.
7 So Wednesday, the day before.

8 Q. So Wednesday of last week?

9 A. Yes.

09:15:18AM 10 Q. Did they ever bring you into a courtroom before that?

11 A. Well, I went to -- to see Marian Payson, the magistrate
12 judge --

13 Q. Right.

14 A. -- when the case was starting, but it wasn't the agent
09:15:40AM 15 that brought me.

16 Q. Who brought you?

17 A. When I was in Livingston, the police from Livingston.
18 When I was in Monroe, the police from Monroe.

19 Q. And did you talk to all of these law enforcement people
09:15:59AM 20 about what you knew?

21 **MR. MARANGOLA:** Objection as to what law enforcement
22 people he's talking about.

23 **THE COURT:** Yes, sustained. Be more specific.

24 **BY MR. VACCA:**

09:16:08AM 25 Q. When you were brought over to the sixth floor of this

1 building did you talk to law enforcement?

2 A. Which law enforcement?

3 Q. Well, which ones did you talk to?

4 A. With the federal that went and get me on the jail and they
09:16:28AM 5 brought me here.

6 Q. About 40 times?

7 **MR. MARANGOLA:** Objection, Judge, I think he's asked
8 about 40 times whether it was 40 times.

9 **THE COURT:** Overruled. The answer will stand. Did
09:16:39AM 10 you answer that question? Said about 40 times was the
11 question.

12 **THE WITNESS:** Since 2017 up until Wednesday last
13 week.

14 **BY MR. VACCA:**

09:16:54AM 15 Q. Was it always in this building?

16 A. Yes, but one time it was in Monroe in jail.

17 Q. One time it was at the Monroe County Jail?

18 A. Yes.

19 Q. Who did you meet with there?

09:17:23AM 20 A. With the agent.

21 Q. What agents? I know you mentioned a couple.

22 A. The two federal agents and my attorney and an interpreter.

23 Q. How many times did you meet with law enforcement?

24 A. Which law enforcement?

09:17:47AM 25 Q. Monroe County sheriffs.

1 A. I don't understand the question. How many times I met
2 with them?

3 Q. Yes.

4 A. Well, I was in jail in Monroe County. I don't understand
09:18:10AM 5 what you're trying to say. Like meeting with -- with the
6 police officers in Monroe County?

7 Q. Correct.

8 A. I didn't met with them.

9 Q. You just met with the federal agents?

09:18:30AM 10 A. Yes.

11 Q. And when you met with the federal agents did they show you
12 pictures?

13 A. What time are you asking me?

14 Q. Any time.

09:18:46AM 15 A. Yes.

16 Q. And how many times did you meet to review pictures?

17 A. I don't remember exactly how many.

18 Q. Now, with respect to this video compilation that we're
19 watching, how many times did you review this?

09:19:10AM 20 A. I can say like three times.

21 Q. When did you first review it?

22 A. Like Monday maybe of last week.

23 Q. Monday of last week is the first time you've seen this
24 compilation?

09:19:34AM 25 A. I think so.

1 Q. Okay. When is the last time you saw it?

2 A. Wednesday of last week.

3 Q. Did you review it with the agents?

4 A. Yes, and with -- it was the interpreter and the
09:19:52AM 5 U.S. Attorney.

6 Q. Okay. And when you reviewed this video did they stop it as
7 you viewed it?

8 A. Yes.

9 Q. They did stop it? And how many times did they stop it the
09:20:16AM 10 first time that you saw it?

11 A. I don't know.

12 Q. You don't remember or you don't know?

13 A. I don't remember how many times they stopped it.

14 Q. The first time. How about the second time you saw it?

09:20:36AM 15 A. I don't remember how many times they stopped it.

16 Q. How about the third time?

17 A. I don't remember how many times they stopped it.

18 Q. Okay. And this vehicle that you see that turned, do you
19 recognize that vehicle?

09:20:53AM 20 A. Yes.

21 Q. And did anybody tell you whose vehicle that was?

22 A. No.

23 Q. So you know that vehicle from when? A long time ago?

24 A. When I was working with Javi, that was the truck that he
09:21:12AM 25 was driving.

1 Q. Okay. What kind of truck is it?

2 A. A GMC.

3 Q. GMC. And have you ever seen other GMC vehicles on the
4 road?

09:21:27AM 5 A. Yes.

6 Q. Okay. And in viewing this pause right here that we're
7 looking at, how do you know it's Javi's vehicle?

8 A. Because I recognize it for all the time that I was with
9 him.

09:21:46AM 10 Q. But what is there specific about this silver GMC vehicle
11 that you know it's Javi's vehicle?

12 A. The color, the height of the vehicle.

13 Q. But this could be another GMC silver vehicle on the road,
14 correct?

09:22:15AM 15 A. There could be other GMCS, but I recognize that that's
16 Javi's GMC.

17 Q. But what is there unique about this vehicle that leads you
18 to believe that it's Javi's vehicle?

19 **MR. MARANGOLA:** Objection, Judge, asked and
09:22:32AM 20 answered.

21 **THE COURT:** Overruled. Go ahead.

22 **THE WITNESS:** The height of the vehicle, the color
23 of the vehicle, the front of the vehicle.

24 **BY MR. VACCA:**

09:22:43AM 25 Q. Well, you can't see --

1 A. -- that's like -- like -- like four little lights small in
2 the front part.

3 Q. If we could back this up a little bit, please? Okay, go
4 again. Stop. Okay, now, we are at 10:41.03-062. That
09:23:15AM 5 vehicle, what is there unique about that vehicle that you see
6 by sitting here leads you to believe that it's Javi's vehicle?

7 A. Can you give it a little bit more to the back so I can
8 show you where it is?

9 Q. Continue. Stop. We are at 10:41:05. What is there
09:23:44AM 10 unique about the back of that vehicle that leads you to think
11 that it's Javi's vehicle?

12 A. It's in the front part what I said.

13 Q. No, you said the back. You said the front, then you said
14 the back. You said could I see the back again. What is there
09:24:04AM 15 on the back there --

16 A. No, I say if you can rewind it, go back.

17 Q. Okay. Rewind, please. Stop. Okay, what is there unique
18 about this -- we're at 10:41.02. What is there unique about
19 this vehicle?

09:24:35AM 20 A. The front part.

21 Q. What in the front part?

22 A. The way the light in the front are.

23 Q. Why don't you describe those lights to me that you see.

24 A. How can I describe them?

09:24:56AM 25 Q. Yeah, describe them, please.

1 A. They're like square in here, the bottom, the truck has
2 like little lights.

3 Q. Well, do you see those little lights there?

4 A. I know this mark that is here in the bottom of the big
09:25:35AM 5 head light because I seen the truck many times.

6 Q. Right, but --

7 A. That mark that I see, I know that those are the lights.

8 Q. But there's other GMC vehicles that can have those same
9 lights, wouldn't you agree?

09:25:54AM 10 A. Maybe there is.

11 Q. Okay. So you really don't know if this is Javi's vehicle;
12 is that correct?

13 A. No, that's not correct.

14 Q. That's not correct? Did you ever discuss this vehicle
09:26:13AM 15 with any law enforcement people that you met with?

16 A. Can you repeat the question?

17 Q. Did you ever discuss with law enforcement about this
18 vehicle?

19 A. Discuss about what?

09:26:33AM 20 Q. What's that again?

21 A. Discuss about what?

22 Q. Discuss about Javi's vehicle. Did you ever talk to any
23 law enforcement about Javi's vehicle?

24 A. When they show me the video they asked me if I recognize
09:26:54AM 25 that vehicle.

1 Q. Right. And when was that?

2 A. When I saw the video.

3 Q. Okay. And you said that they had previously discussed the
4 vehicle with you?

09:27:09AM 5 **MR. MARANGOLA:** Objection, Judge, that's misstating
6 his testimony previously.

7 **THE COURT:** Sustained. Rephrase the question.

8 **BY MR. VACCA:**

9 Q. Before you saw this video compilation did you speak with
09:27:20AM 10 any law enforcement about this vehicle?

11 A. Not before I saw the video.

12 Q. Not before you saw the video?

13 A. No.

14 Q. Okay. When --

09:27:37AM 15 A. They asked me --

16 Q. -- when did you see this video?

17 A. -- like Monday of last week.

18 Q. And you saw this video and they asked you if this was
19 Javi's vehicle?

09:27:51AM 20 A. No.

21 Q. What did they ask you?

22 A. That if I recognize who this vehicle belongs to.

23 Q. Okay. Again, continue, please. Okay, stop, please.

24 10:41.05. What street did this vehicle turn onto?

09:28:18AM 25 A. I don't know.

1 Q. You don't know which vehicle -- which road it was on?

2 A. No.

3 Q. Okay. Did anybody tell you at any point in time -- law
4 enforcement -- what street that was?

09:28:36AM 5 A. No.

6 Q. Okay. Continue, please. Okay, stop. 10:43.22. Now, is
7 this another vehicle or -- on the street, this street?

8 A. Well, there's other vehicles.

9 Q. All right. But were you ever shown this before?

09:29:15AM 10 A. Yes.

11 Q. Okay. And did anybody ask you any questions about this
12 when you were reviewing it?

13 A. Yes.

14 Q. Who asked you questions about it?

09:29:29AM 15 A. The U.S. Attorney.

16 Q. Okay. And what did you tell -- what did they ask you about
17 this?

18 A. That if I recognize some of the vehicles in this video.

19 Q. And what was your response?

09:29:46AM 20 A. That yes.

21 Q. Okay.

22 A. The one.

23 Q. Which one is that?

24 A. The GMC.

09:29:55AM 25 Q. Which one is that?

1 A. The one that I marked.

2 Q. As you look at that do you know what street that vehicle
3 is on?

4 A. I seen watching the video and seen the other videos
09:30:24AM 5 forward, I knew that was Miller.

6 Q. How did you know that that was Miller?

7 A. Because I went there the night before I was arrested.

8 **THE COURT:** He marked the vehicle in the center of
9 that particular photograph -- video. Go ahead, I'm sorry.

09:30:50AM 10 **BY MR. VACCA:**

11 Q. So what question did the U.S. Attorney ask you when you
12 saw this portion of the video?

13 A. That if I recognize any of the vehicles that is in this
14 video.

09:31:10AM 15 Q. Okay. And you said?

16 A. That yes, one of them.

17 Q. Okay. Continue, please. Pause, please. 10:43.35. Now,
18 sir, looking at this picture what has the vehicle done?

19 **MR. MARANGOLA:** Objection, Judge, can we be more
09:31:43AM 20 specific as to the vehicle he's referring to?

21 **THE COURT:** Yes, which vehicle?

22 **BY MR. VACCA:**

23 Q. The silver vehicle.

24 A. The vehicle went over the ramp that -- that's like so you
09:32:06AM 25 don't go too fast.

1 Q. The bump, bump in the road?

2 A. Yes.

3 Q. Okay. Continue, please. Pause, please. 10:43:55. Now,
4 you've testified this is Miller Street, correct?

09:32:47AM 5 A. Yes.

6 Q. Have you ever had opportunity to judge the speed of
7 vehicles? Have you ever had the opportunity to judge the
8 speed -- judge the speed of vehicles?

9 A. Not that I remember.

09:33:07AM 10 Q. So you've never judged the speed of vehicles, correct?

11 A. What? I don't understand what -- I can say if a vehicle
12 is going very fast or is going slow?

13 Q. Would you say that that silver vehicle was traveling slow?

14 A. Yes.

09:33:38AM 15 Q. Okay. Continue, please. Pause. 10:44.35. Do you
16 recognize that -- what is shown on the video compilation?

17 A. Yes.

18 Q. What do you recognize?

19 A. The GMC truck.

09:34:01AM 20 Q. This is at 10:44.35. That's a GMC truck?

21 A. Yes.

22 Q. Okay. Continue, please. Pause. 10:44.38. And what
23 street is that vehicle traveling on if you know?

24 A. On Miller.

09:34:25AM 25 Q. It's on Miller Street. Okay, continue, please. Pause.

1 10:44:52. What does that show?

2 A. That the vehicle stopped, the GMC.

3 Q. You weren't present to view this vehicle traveling up and
4 down the street; is that correct?

09:35:06AM 5 A. That if I wasn't present when the vehicle was on the
6 street?

7 Q. Yes.

8 A. That was the day that I was arrested.

9 Q. Right.

09:35:19AM 10 A. But I wasn't present watching the vehicle on the street.

11 Q. Right. You did not see that on Miller Street that day,
12 correct?

13 A. Correct.

14 Q. All right. And there was a shootout, right?

09:35:37AM 15 A. Yes.

16 Q. And Javi was not there at the shootout, correct?

17 A. I don't know his face -- I didn't see his face in the
18 shootout.

19 Q. All right. You didn't see him there at the shootout,
09:35:55AM 20 correct?

21 A. I didn't saw him face-to-face.

22 Q. Right. So you didn't see him that day, correct?

23 A. Face-to-face, no.

24 Q. Okay. And as far as speaking to him that day, you didn't
09:36:15AM 25 see him to speak to him that day, correct?

1 **MR. MARANGOLA:** Objection to the form.

2 **THE COURT:** Overruled. You can answer that.

3 **THE WITNESS:** Can you repeat the question?

4 **BY MR. VACCA:**

09:36:25AM 5 Q. You didn't see him face-to-face that day, correct?

6 A. Correct.

7 Q. Okay. And you didn't see his vehicle there that day,
8 correct?

9 A. Correct.

09:36:39AM 10 Q. All right. And you were -- you were in 54 Miller Street on
11 that day when the shootout happened, correct?

12 A. Yes.

13 Q. And you are at the window, correct?

09:36:58AM 14 A. I was in the bedroom where the window was. There were
windows.

16 Q. There were windows. And you were able to see out,
17 correct?

18 A. Yes.

19 Q. Okay. Who was there, if anybody?

09:37:10AM 20 A. Are you saying inside the house?

21 Q. Who was inside the house?

22 A. Fat Gordo and myself.

23 Q. Gordo and yourself. And you were shooting out -- you were
24 firing from inside to outside; is that correct?

09:37:29AM 25 A. If I was shooting from inside the house towards outside?

1 Q. Yes.

2 A. Yes.

3 Q. Okay. And were you looking out the window?

4 A. Yes.

09:37:42AM 5 Q. But you don't know who was shooting at you?

6 **MR. MARANGOLA:** Objection, Judge, there's been no
7 testimony that anybody was shooting at him.

8 **MR. VACCA:** I'll rephrase it.

9 **THE COURT:** Okay.

09:37:53AM 10 **BY MR. VACCA:**

11 Q. I'll rephrase it. Was anybody else shooting at the house?

12 A. No.

13 Q. No one else was shooting at the house?

14 A. Shooting at the house?

09:38:08AM 15 Q. Shooting at the house?

16 A. No.

17 Q. Okay. Well, did anybody get shot that day?

18 A. Yes.

19 Q. Okay. But you say there was nobody else shooting at the
09:38:23AM 20 house?

21 A. No.

22 Q. Okay. Okay, you can take this down now. Sir, yesterday
23 the U.S. attorney asked you a lot of questions -- yesterday
24 the U.S. Attorney asked you a lot of questions about recorded
09:38:55AM 25 conversations; is that correct?

1 A. Yes.

2 Q. And when they asked you the questions about it you
3 indicated that you listened to these various clips; is that
4 correct?

09:39:15AM 5 A. The one that he showed me, yes.

6 Q. And you also said in response to I believe Mr. Marangola's
7 direct examination if there were some conversations where you
8 didn't recognize voices?

9 A. Yes.

09:39:32AM 10 Q. Okay. And how many were there?

11 A. I don't know.

12 Q. Well, take a guess.

13 A. Maybe ten.

14 Q. Ten?

09:39:51AM 15 A. Maybe less. I'm not sure.

16 Q. How about more?

17 A. Maybe more.

18 Q. Maybe more. Now, when did they first -- the law
19 enforcement -- pick you up, bring you over here and ask you to
09:40:08AM 20 listen to wiretaps?

21 A. I'm not sure of the wiretaps.

22 Q. Well, did you listen to them here in this building?

23 A. Yes.

24 Q. Okay. With law enforcement, correct?

09:40:34AM 25 A. What kind of law enforcement?

1 Q. Fed.

2 A. Yes.

3 Q. And how many times did you listen to wiretaps with the
4 feds?

09:40:48AM 5 A. I'm not sure how many times.

6 Q. You're not sure how many times?

7 A. I'm not sure. Many times I listen the recordings.

8 Q. 50? 100?

9 A. Maybe -- maybe 30 times.

09:41:14AM 10 Q. 30 times? Okay. And I wasn't there, so why don't you
11 tell me how listening to these wiretaps came about.

12 A. The U.S. Attorney, he played it on his computer with a
13 speaker that you can hear it loud so I was listening to what
14 was being said, and he will ask me if I recognize any of the
09:41:55AM 15 voices that was in the call.

16 Q. Okay. What was your response?

17 A. When I recognize a person I will tell him the name of the
18 person.

19 Q. Would you say anything else about the voice that you had
09:42:18AM 20 heard?

21 A. If he will ask me if I recognize a person, I will say yes.
22 And if he will ask me who, I will say the name of the person.

23 Q. And how many times did this happen?

24 A. Maybe 30 times.

09:42:48AM 25 Q. Okay.

1 A. I'm not sure how many times honestly.

2 Q. And as he played them for you, would you stop it?

3 A. Sometime he will stop them and he will rewind it.

4 Q. Now, before they started having you listen to the wiretaps
09:43:20AM 5 were they talking to you about the case?

6 A. About what case?

7 Q. About this case.

8 A. You're talking about the defendant's case?

9 Q. Yes.

09:43:39AM 10 A. They will ask me questions of the things that I knew about
11 the case.

12 Q. How did they know what you knew about the case?

13 **MR. MARANGOLA:** Objection to the form.

14 **THE COURT:** Yes, sustained.

09:43:51AM 15 **BY MR. VACCA:**

16 Q. You just indicated that they asked you questions about the
17 case?

18 A. When I got together with them, yes.

19 Q. Okay. And they asked you about the case. Did they ask you
09:44:05AM 20 about specific people?

21 A. Well, they will ask me like, example, when I was arrested
22 if I knew who the drug belongs to that I stole. And I will
23 tell them of the person I stole it from.

24 Q. Now, when were you arrested?

09:44:40AM 25 A. December 8, 2016.

1 Q. The day after Miller Street, correct?

2 A. No. The day of the shooting on Miller Street.

3 Q. The day of the shooting on Miller Street you were
4 arrested?

09:45:02AM 5 A. Yes.

6 Q. Now, when you were arrested what were you charged with, do
7 you remember?

8 A. The federal -- when the federals arrested me?

9 Q. Correct.

09:45:27AM 10 A. With possession of one kilogram or more of heroin with
11 intent to distribute and possession of a firearm and
12 discharging a firearm.

13 Q. And that was for Miller Street, correct?

14 A. In furtherance of a drug trafficking. That's when I was
09:45:50AM 15 arrested on Miller Street that they caught me with that, but
16 those weren't the same charges that I have because the one
17 that arrested me on Miller, it was the Rochester Police.

18 Q. So were you brought over to Rochester when you were
19 initially charged?

09:46:24AM 20 A. I don't understand the question.

21 Q. Were you first charged in Rochester and then were you
22 charged in federal court?

23 A. Yes.

24 Q. Then the case was brought over to federal court; is that
09:46:38AM 25 correct?

1 A. Yes.

2 Q. Okay. And when you were charged in federal court did you
3 make a deal? Did you make a deal?

4 A. When the time -- as the time passed I took a plea
09:47:01AM 5 agreement.

6 Q. All right. And what did that plea agreement involve?

7 A. Cooperation.

8 Q. Cooperation?

9 A. Yes.

09:47:15AM 10 Q. And what was your agreement in terms of how much time you
11 were going to be in prison?

12 A. They charge me with possession of one kilogram or more of
13 heroin with intention to distribute, possession of firearm and
14 discharging a firearm in furtherance of a drug trafficking.

09:47:49AM 15 So the minimum for that charge -- for both charge it was 20
16 years.

17 Q. 240 months, correct?

18 A. Yes.

19 Q. A fine of \$25,000 to \$10,000 (sic), correct?

09:48:06AM 20 A. About the fine, I don't remember.

21 Q. And a supervised release, which is like parole, for five
22 years, correct? Correct?

23 A. I don't remember how many it was the parole.

24 Q. And you haven't been sentenced yet, have you?

09:48:28AM 25 A. No.

1 Q. And the reason you haven't been sentenced is because of
2 your cooperation, right?

3 A. Yes.

4 Q. All right. And your cooperation is to help get a
09:48:39AM 5 conviction on Javi; is that correct?

6 A. No.

7 Q. No? What is the purpose of cooperation?

8 A. To tell the truth of what I know.

9 Q. Are you going to get a lesser sentence if you do that?

09:49:04AM 10 A. That's what I hope for.

11 Q. Lesser time?

12 A. But that's not up to -- that's not up to me.

13 Q. Who is it up to?

14 A. The Government, the U.S. Attorney.

09:49:18AM 15 Q. Okay. So it's up to them as to what you get?

16 A. It's up to the judge when he sentence me.

17 Q. So you are hoping that you get a lesser sentence, right?

18 A. Yes.

19 Q. And that's because -- that's because as far as cooperation
09:49:42AM 20 goes, you want to help the Government as much as you can so
21 you can get less time?

22 A. Can you repeat the question?

23 Q. Withdraw it. So if you go to Government's Exhibit 783?

24 A. Are you telling me to go there?

09:50:31AM 25 Q. Yes, go there. And it's page 10.

1 A. 7 what?

2 Q. 783.

3 A. Page 10?

4 Q. Page 10.

09:53:01AM 5 A. Yes, I'm there already.

6 Q. Okay. Go to page 15 now.

7 A. I'm there.

8 Q. Page 15 is your signature there?

9 A. Yes.

09:53:24AM 10 Q. Okay. And this is the plea agreement; is that correct?

11 A. Yes.

12 Q. Now, as part of your agreement was it indicated that you
13 will not be prosecuted by the Office of the U.S. Attorney for
14 the Western District of New York for any other federal crimes
09:53:46AM 15 committed within the Western District of New York; is that
16 correct?

17 A. I'm not sure what you're asking me. Can you repeat the
18 question?

19 Q. As part of the plea agreement at No. 24, in exchange for
09:54:03AM 20 your guilty plea and cooperation, the defendant will not be
21 prosecuted by the Office of the U.S. Attorney for the Western
22 District of New York for any other federal criminal offenses
23 committed in the Western District of New York in any way
24 involving or related to the unlawful possession, manufacture,
09:54:28AM 25 distribution or importation of controlled substances and the

1 unlawful possession of firearms committed up to the date of
2 the agreement on which you provide complete and truthful
3 information; is that correct?

4 A. No.

09:54:50AM 5 Q. That's not correct?

6 A. No.

7 Q. Look at page 10, No. 24.

8 A. You just finished telling me if I committed any other
9 crime that I was not going to -- I was not going to be
09:55:13AM 10 charged?

11 Q. Right.

12 A. That's not correct.

13 Q. Well, read No. 24 again.

14 A. You want me to read it?

09:55:55AM 15 Q. Yeah, read it.

16 **MR. MARANGOLA:** Judge, I'm going to just state for
17 the record this exhibit's not in evidence. If Mr. Vacca
18 wishes to have the witness read the document a loud, he should
19 offer it into evidence.

09:56:07AM 20 **MR. VACCA:** I would offer this into evidence, Your
21 Honor.

22 **MR. MARANGOLA:** No objection, Judge.

23 **THE COURT:** Exhibit 783 will be received.

24 (**WHEREUPON**, Government Exhibit 783 was received
09:56:17AM 25 into evidence).

1 **THE COURT:** You've got to pull the microphone
2 closer.

3 **BY MR. VACCA:**

4 Q. Page 10, No. 24.

09:57:01AM 5 A. In exchange for the defendant's plea of guilty on
6 cooperation as set forth in this agreement the defendant will
7 not be prosecuted by the Offices of the United States Attorney
8 for the Western District of New York for any other crime
9 federal committed offenses -- committed in the Western
09:57:27AM10 District of New York in any way involving or relate to the
11 unlawful possession, manufacture, distribution or importation
12 of controlled substances or unlawful possession of firearm
13 committed up to the day of this agreement on which the
14 defendant provide complete and truthful information. Such
09:57:56AM15 promise of no prosecution does not foreclose any prosecution
16 for -- not involving murder, intent murder or act of physical
17 violence against the person of another or conspiracy to commit
18 a act of violence.

19 Q. Then if you look at No. 26, why don't you read that?

09:58:35AM20 **THE COURT:** Before you do, can you put one of the
21 covers on that? This little box here, put a cover on the
22 microphone. The other one, that's right. Thank you.

23 **BY MR. VACCA:**

24 Q. Read No. 26 for us on page 10. Thank you.

09:58:57AM25 A. Upon condition that the defendant has fully complied with

1 all terms and conditions of this agreement, should the
2 Government determine that the defendant has provided
3 substantial assistance in the investigation or prosecution of
4 other persons who have committed offenses, the Government will
09:59:22AM 5 move the Court at sentencing to depart downward from the
6 guidelines as provided for in guidelines 5K1.1 and the
7 imposition of a sentence below a mandatory minimum term of
8 imprisonment pursuant to Title 18, United States Code, Section
9 3553(e). The defendant understands that the decision to make
10 such a motion is within the sole discretion of the Government
11 and that the decision to grant such a motion, and the extent
12 of any downward departure -- I don't know how to say that
13 word -- are matters solely within the discretion of the Court.

14 Q. Sir, did you sign this agreement?

10:00:36AM 15 A. Yes.

16 Q. If you look at page 15?

17 A. I'm there.

18 Q. Is your signature there?

19 A. Yes.

20 Q. And what's the date on that? February 23rd, 2018?

21 A. Yes.

22 Q. Okay. So, sir, when did you start cooperating?

23 A. I signed the plea on February 23rd, 2018. That was when I
24 took the cooperation agreement.

25 Q. Okay. So you were arrested on December 7th or 8th of 2016,

1 correct?

2 A. December 8, 2016.

3 Q. Okay. And from that date until February 23rd had you been
4 cooperating?

10:01:45AM 5 A. No.

6 Q. So then there was a plea agreement, correct?

7 A. On the time -- after a time that I was arrested there was
8 a plea agreement.

9 Q. There was a plea agreement. But you entered into that
10:02:08AM 10 plea agreement a couple years after you were arrested,
11 correct?

12 A. Yes.

13 Q. And that's because you were -- you and your lawyer were
14 negotiating a cooperation agreement with the Government,
15 correct?

16 A. Can you repeat the question?

17 Q. That's because you were working on a deal, plea agreement,
18 with a cooperation clause in it to cooperate, correct?

19 A. I'm not sure.

10:02:44AM 20 Q. You're not sure?

21 A. No.

22 Q. You didn't sign the cooperation -- you didn't sign the
23 plea agreement without the cooperation clause in there, right?

24 A. When I sign it the cooperation was there.

10:03:02AM 25 Q. Okay. And that's when you started cooperating, right?

1 A. Yes.

2 Q. But you didn't start cooperating until that agreement was
3 in there signed by the U.S. Attorney and you and your lawyer,
4 correct?

10:03:19AM 5 A. Yes.

6 Q. Okay. And is that when you started meeting with the
7 federal authorities about this case?

8 A. No.

9 Q. When did you start meeting with the federal authorities
10 regarding this case?

11 A. Like in January of 2017.

12 Q. So there was no cooperation agreement in place before you
13 started cooperating?

14 A. Before I sign the plea there was no cooperation agreement.

10:04:07AM 15 Q. Okay. So you didn't start cooperating until there was a
16 cooperation agreement?

17 **MR. MARANGOLA:** Objection, Judge, asked and
18 answered.

19 **THE COURT:** Sustained.

10:04:15AM 20 **MR. VACCA:** Thank you, Mr. Camacho.

21 **MR. MARANGOLA:** May I proceed, Your Honor?

22 **THE COURT:** Yes.

23 REDIRECT EXAMINATION

24 **BY MR. MARANGOLA:**

10:04:43AM 25 Q. All right. Mr. Aponte Camacho, Mr. Vacca just asked you a

1 number of questions about your plea agreement?

2 A. Yes.

3 Q. I guess let's go back. We're going to pull up the plea
4 agreement, Government's 783. Mr. Vacca asked you some
10:05:12AM 5 questions about paragraph 24, which is on page 10, I believe.

6 You see it there?

7 A. Yes.

8 Q. And that starts off with in exchange for the defendant's
9 guilty plea -- I'm sorry, the defendant's pleas of guilty and
10:05:35AM 10 cooperation; is that correct?

11 A. Yes.

12 Q. So in exchange for you pleading guilty to the two charges
13 that you were charged with, correct?

14 A. Yes.

10:05:49AM 15 Q. And that would be the narcotics felony and the firearms
16 felony, correct?

17 A. Yes.

18 Q. As well as your cooperation?

19 A. Yes.

10:06:01AM 20 Q. Then you weren't going to be further prosecuted for crimes
21 that you had committed -- that were committed before you
22 signed the plea agreement; is that correct?

23 A. Yes.

24 Q. That related to the drug trafficking and firearms
10:06:18AM 25 possession; is that correct?

1 A. Yes.

2 Q. And that was conditioned upon you -- those crimes being
3 committed up to the date of the agreement?

4 **MR. VACCA:** Objection, Your Honor.

10:06:31AM 5 **THE COURT:** What's the objection?

6 **MR. VACCA:** Well, that's not really what it says.

7 **MR. MARANGOLA:** That is what it says.

8 **THE COURT:** Well, why don't you rephrase your
9 question?

10:06:41AM 10 **MR. MARANGOLA:** Sure.

11 **BY MR. MARANGOLA:**

12 Q. Why don't you go down to the one, two, three, four, five,
13 sixth line and tell me does it say committed up to the date of
14 this agreement?

10:07:04AM 15 A. I see it.

16 Q. And does it say committed up to the date of this
17 agreement?

18 A. Yes.

19 Q. And then does it say and about which the defendant
10:07:16AM 20 provides complete and truthful information?

21 A. Yes.

22 Q. So have you been charged with selling drugs out of LaForce
23 Street after pleading guilty?

24 A. No.

10:07:31AM 25 Q. And that occurred before this plea agreement, correct?

1 A. Yes.

2 Q. And have you provided complete and truthful information
3 about that activity?

4 A. Yes.

10:07:55AM 5 Q. All right. Mr. Vacca asked you questions about when you
6 began cooperating. Tell the jury when you first sat down with
7 an attorney and agents from law enforcement and discussed your
8 involvement in selling drugs with the defendant.

9 A. When it was?

10:08:15AM 10 Q. Yes.

11 A. You're asking me to tell you when it was?

12 Q. Yes.

13 A. I think like in January of 2017.

14 Q. Okay. And you were interviewed by agents before you signed
10:08:33AM 15 the plea agreement in February of 2018, right?

16 A. Yes.

17 Q. Okay. And, by the way, if we go to the last page of this
18 document does that reflect an interpreter's affirmation?

19 A. Yes.

10:09:04AM 20 Q. And was this plea agreement interpreted for you before you
21 signed it?

22 A. Yes.

23 Q. Okay. So let's talk about some of these meetings Mr. Vacca
24 asked you questions about. The meetings where you sat down
10:09:32AM 25 with law enforcement as well as myself, did I ever tell you

1 who was speaking in a particular call that you listened to?

2 A. No.

3 Q. One time -- did I ever tell you even one time who was
4 speaking?

10:09:49AM 5 A. No.

6 Q. Did I ever tell you -- when you didn't know who somebody
7 was in the call, did I ever identify that person to you?

8 A. No.

9 Q. Did I ever tell you the name of a single photo of -- a
10:10:09AM 10 single person of any photo I showed you?

11 A. No.

12 Q. In the time you listened to the wiretap calls, did myself
13 or anyone in the room with you ever tell you what the meaning
14 of words in those calls were?

10:10:36AM 15 A. No.

16 Q. And there were some questions about the shooting at 54
17 Miller Street by Mr. Vacca?

18 A. Yes.

19 Q. Can you tell the jury why you shot from inside 54 Miller
10:11:10AM 20 Street outside of it? Why did you shoot?

21 A. Because I saw Tapon, Cabra and Obed. Tapon and Obed, that
22 they got out with two pistols and I thought that they were
23 gonna kill me for stealing Javi's drug.

24 Q. You didn't think they were coming over to pay you a social
10:11:38AM 25 visit?

1 **MR. VACCA:** Objection, Your Honor.

2 **THE COURT:** Sustained, that will be stricken.

3 **BY MR. MARANGOLA:**

4 Q. Mr. Vacca asked you -- Mr. Vacca asked you a number of
10:12:00AM 5 questions about how you recognized Javi's truck in the Miller
6 Street compilation which we have -- we've begun to play here.
7 And at approximately 13 seconds here you see that truck in the
8 blue square?

9 A. Yes.

10 Q. And can you tell the jury do you have any doubt as to
11 whose truck you believe that to be?

12 **MR. VACCA:** Objection, Your Honor.

13 **THE COURT:** Overruled.

14 **THE WITNESS:** I have no doubt.

10:12:37AM 15 **BY MR. MARANGOLA:**

16 Q. All right. And who did you see driving that truck during
17 the time that you worked for the defendant?

18 A. Javi.

19 Q. All right. And if we could go to -- from the pole camera
10:12:54AM 20 compilation DVD on January 19th?

21 **THE COURT:** What exhibit is this?

22 **MR. MARANGOLA:** The pole camera compilation is 22,
23 Judge.

24 **THE COURT:** Thank you.

10:13:04AM 25 **BY MR. MARANGOLA:**

1 Q. And on January 19th, the clip starting at 12:10. If we
2 can pause it here at 5 seconds into the clip. Mr. Aponte
3 Camacho, is that the same or different vehicle than you just
4 saw in the Miller Street compilation DVD that Mr. Vacca was
10:13:33AM 5 asking you questions about?

6 A. The same.

7 Q. All right. And if we could go to the pole camera clip on
8 the next one on January 19th at 12:25 p.m.?

9 **THE COURT:** Same exhibit?

10:13:56AM 10 **MR. MARANGOLA:** I'm sorry, yes, Judge, compilation
11 Exhibit 22.

12 **BY MR. MARANGOLA:**

13 Q. If we can pause it here at approximately 3 seconds into
14 the clip on January 19th, 2018. Mr. Aponte Camacho, can you
10:14:10AM 15 tell us is that the same or different truck than you observed
16 on the other two clips that you've seen today?

17 **MR. VACCA:** Objection, Your Honor.

18 **THE COURT:** Overruled.

19 **THE WITNESS:** The same.

10:14:19AM 20 **BY MR. MARANGOLA:**

21 Q. All right. And I think we won't do anymore clips of the
22 truck for now.

23 Can we go -- Mr. Aponte Camacho, Mr. Vacca asked
24 you if you had been brought to court before coming here today.
10:14:49AM 25 Have you testified in any other proceeding in connection with

1 this case?

2 A. I testify in front of the grand jury.

3 Q. All right. And then you've testified for the last few days
4 here; is that correct?

10:15:07AM 5 A. Yes.

6 Q. Any other time you testified in connection with this case?

7 A. Testifying -- like I talk to the agents, but not testify
8 like -- like in front of a jury or anything.

9 Q. Right. And by testify I mean place your hand on a Bible,
10 swear to tell the truth and be in a courtroom and having a
11 courtroom stenographer take down what you say.

12 A. Okay.

13 Q. So you did that only with grand jury and in this trial; is
14 that correct?

10:15:53AM 15 A. Yes.

16 Q. Mr. Aponte Camacho, did I tell you the streets' names in
17 any of the videos that I showed you?

18 A. No.

19 Q. Did I tell you whether you were right or wrong if you
20 identified a particular street?

21 A. No.

22 Q. Have I told you what any other witness has told the
23 Government?

24 A. No.

10:16:27AM 25 Q. What's the one thing I asked of you from the day I met

1 you?

2 A. To tell the truth.

3 Q. What's your one obligation under the plea agreement?

4 A. Tell the truth.

10:16:43AM 5 Q. Have you done that since you've testified in this trial?

6 **MR. VACCA:** Objection, Your Honor.

7 **THE COURT:** Sustained.

8 **MR. MARANGOLA:** No further questions, Judge. Thank
9 you.

10 **MR. VACCA:** No recross, Your Honor.

11 **THE COURT:** Thank you very much. You may step down.

12 (**WHEREUPON**, the witness was excused).

13 * * *

14 **CERTIFICATE OF REPORTER**

15
16 In accordance with 28, U.S.C., 753(b), I certify that
17 these original notes are a true and correct record of
18 proceedings in the United States District Court for the
19 Western District of New York before the Honorable Frank P.
20 Geraci, Jr. on May 18th, 2021.

21
22 S/ Christi A. Macri

23 Christi A. Macri, FAPR-RMR-CRR-CSR(CA/NY)
24 Official Court Reporter

25